IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13076 of 2004

Between:

1 M/s. SDV Steels Limited, IDA Kondapalli, K. Pothavaram Village, G.

Kondur Mandal, rep by Executive Director, K. Srinivasa Rao S/o Kotaiah

R/o Vijayawada
2 M/s. Kamakshi Steels Private Ltd., G.F.4, Anjana Apartments, Water Tank

Road, Labbipet Vijayawada-10, rep by Managing Director,

Mr. P.Seetharamaiah S/o Meeraiah R/o Vijayawada

..... PETITIONERS

AND

1 The Superintendent of Central Excise, Range-3, Vijayawada
2 The Assistant Commissioner of Customs & Central Excise, Vijayawada

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly in the nature of Writ of Mandamus

and set a side the order on OC No. 154/2004 dt 31-05-2004 and direct the respondents herein to dispose of the 2nd Petitioner's application dt 12-05-2004 for transfer of License without insisting on compliance with the conditions imposed in the impugned communication in OC No. 154/2004 dt 31-05-2004 issued by the Respondent No.1 at the instance of Respondent No.2.

Counsel for the Petitioners : MR.S.R.ASHOK, SENIOR ADVOCATE for RAHIMUDDIN MD, Advocate.

Counsel for the Respondents : MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court at the admission stage made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

Petitioners have challenged the order dated 31-05-2004. First Petitioner wanted to surrender Central Excise Registration certificate and he also wanted that this certificate be issued afresh in favour of second petitioner. The request was rejected on the ground that payment of certain huge amounts were outstanding and in one of the matters, in fact a show cause notice had been issued and in another matter show cause notice was proposed to be issued by the Department.

Sri S.R.Ashok, learned Senior Counsel, submits that surrender is a unilateral act and if the party wants to surrender his certificate, he cannot be forced to continue with the certificate.

On the other hand, learned Standing Counsel for Union of India submits that there is no provision under any law where a certificate can be transferred from one person to another person and if a person surrenders his certificate, he will have to clear his dues.

Sri S.R.Ashok submits that in the Finance Act of 2004, there are some new provisions incorporated which take care of the liabilities if any of the first petitioner even after surrender of his license and the liabilities if any of the first petitioner will have to be paid by the second petitioner in view of amendment in the law.

In view of these submissions, without going into the merits of claims and counter-claims, we allow the first petitioner to move an application for surrender and the second petitioner to move an application for fresh registration. Respondents shall consider both the applications on merits, in accordance with law, and pass appropriate orders.

The writ petition is accordingly disposed of. No order as to costs.

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(BILAL NAZKI, J)

13th September, 2004.

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(S.ANANDA REDDY, J)

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To

1 The Superintendent of Central Excise, Range-3, Vijayawada
2 The Assistant Commissioner of Customs & Central Excise,

Vijayawada

3 Two C.D copies.